



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0943]

RIN 1625-AA00

Safety Zone; Rich Passage, Manchester, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing all navigable waters within a designed area in the vicinity of the Manchester Fuel Piers, Manchester, Washington. This safety zone is necessary to ensure the safety of the waterway users and participants of a maritime training exercise. The temporary safety zone will prohibit any person or vessel not involved in the training exercise from entering or remaining in the safety zone unless authorized by the Captain of the Port, Puget Sound (COTP) or his designated representative.

DATES : This rule is effective from 7 a.m. on November 2, 2015 until 6 p.m. on November 8, 2015. This rule shall be enforced during actual training operations occurring within the effective period while exercise participants are present in the safety zone.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket,

go to <http://www.regulations.gov>, type USCG-2015-0943 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Kate Haseley, Waterways Management Division, Coast Guard Sector Puget Sound; telephone 206-217-6051, e-mail SectorPugetSoundWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	Federal Register
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule publishing an NPRM would be impracticable as delayed promulgation may result in injury or damage to the maritime public and response vessels prior to conclusion of a notice and comment period.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**.

Delaying the effective date of this rule would be impracticable because immediate action is needed to minimize the potential impact to the waterway users and emergency response personnel involved in the training exercise.

III. Legal Authority and Need for Rule

The Coast Guard has authority to issue a rule under authority in 33 U.S.C. 1231. The Captain of the Port, Puget Sound has determined that potential hazards associated with the training exercise will be a safety concern for anyone transiting through the operational location of the exercise. A safety zone is needed to ensure the safety of the maritime public and emergency response vessels participating in the exercise by preventing collisions between exercising vessels and the maritime public, and by keeping the maritime public a safe distance away from elements associated with the exercise.

IV. Discussion of the Rule

The Coast Guard is establishing a temporary safety zone that will encompass all navigable waters within an area established by the following points: 47°34'13" N, 122°32'12" W thence southeast to 47°33'41" N, 122°31'07" W, thence southwest to 47°33'15" N, 122°32'04" W, thence south to 47°31'49" N, 122°31'47" W, thence west to 47°31'55" N, 122°32'28" W, thence north to 47°33'20" N, 122°32'29" W, thence northeast to 47°34'08" N, 122°32'17" W, located near the Manchester fuel piers, Manchester, WA and is effective from 7 a.m. on November 2, 2015 until 6 p.m. on November 8, 2015 when vessel exercise participants are present in the safety zone. Vessels wishing to enter the safety zone must request permission to do so from the Captain of the Port, Puget Sound by contacting the Joint Harbor Operations Center at 206-217-6001 or the on-scene Law Enforcement patrol craft, if any, via VHF-FM Channel 16. If permission for entry is granted, vessels must proceed at a minimum speed for safe navigation.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the limited nature of the size and duration of the temporary safety zone. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM Channel 16 about the safety zone and the rule allows vessels to seek permission to enter the safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V above, this rule will not have a significant economic impact on any vessel owner or operator, because the zone established in this rule is limited in nature of size and duration.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We

have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone lasting less than 29 days that will prohibit entry into various training exercise operations within the designated area. It is categorically excluded from further review under paragraph 34(g) of

Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and Record Keeping Requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T13-300 to read as follows:

§ 165.T13-300 Safety Zone; Manchester, WA

(a) **Location.** The temporary safety zone established in this rule will encompass all navigable waters within an area established by the following points: 47°34'13" N, 122°32'12" W thence southeast to 47°33'41" N, 122°31'07" W, thence southwest to 47°33'15" N, 122°32'04"

W, thence south to 47°31'49 N, 122°31'47" W, thence west to 47°31'55" N, 122°32'28" W, thence north to 47°33'20" N, 122°32'29" W, thence northeast to 47°34'08" N, 122°32'17" W, located near the Manchester fuel piers, Manchester, WA.

(b) Regulations. In accordance with the general regulations in 33 CFR 165, Subpart C, no person or vessel may enter or remain in the safety zone unless authorized by the Captain of the Port, Puget Sound or his designated representative. To request permission to enter the safety zone, contact the Joint Harbor Operations Center at 206-217-6001, or the on-scene Law Enforcement patrol craft, if any, via VHF-FM Channel 16. If permission for entry into the safety zone is granted, vessels or persons must proceed at the minimum speed for safe navigation and in compliance with any other directions given by the Captain of the Port, Puget Sound or his designated representative.

(c) Dates. This rule is effective from 7 a.m. on November 2, 2015 until 6 p.m. on November 8, 2015. This rule shall be enforced during actual training operations occurring within the effective period while exercise participants are present in the safety zone.

Dated: October 9, 2015

M. W. Raymond
Captain, U.S. Coast Guard
Captain of the Port, Puget Sound

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